IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10832 of 2003
with
SPECIAL CIVIL APPLICATION No 17545 & 17823 of 2003
with
SPECIAL CIVIL APPLICATION NOS.500 & 832 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SARVA VIDYALAYA KELAVANI MANDAL THRO.S.CHINNAM REDDY
Versus
STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 10832, 17545 & 17823 of 2003
MR DC DAVE for Petitioner No. 1
Mr.H.D.Dave. Asst.GOVERNMENT PLEADER for Respondent No. 1-2
MRS VD NANAVATI for Respondent No. 3
MS AMRITA M THAKORE for Respondent No. 4
2. Special Civil Application Nos.500 & 832 of 2004
MR DC DAVE for Petitioner No. 1
Mr.H.D.Dave. Asst.GOVERNMENT PLEADER for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 19/08/2004

ORAL JUDGEMENT

All the learned advocates appearing for both the sides are finally heard.

As in all these petitions facts are more or less same and common questions are involved they are being dealt with by this common order.

2. The short facts are as under:

(i) All the petitioners are self-financed and unaided colleges imparting education for M.B.A, M.C.A and other professional courses. The concerned petitioners colleges are affiliated to various university of Gujarat State, namely, Gujarat University, Saurashtra University and North Gujarat University, For admissions to courses of MBA and MCA in these group of petitions, there were two Centralised Admission Committees with which the subject matter of petitions related to, i.e. one was for the colleges affiliated to Gujarat University and the other was for the colleges affiliated to North Gujarat University, Patan and Saurashtra University, Rajkot. The petitioners of SCA Nos. 10832 and 17823/03 are the institutions affiliated to Gujarat University whereas petitioners of SCA Nos 500 and 832/04 and 17545/03 are affiliated to North Gujarat University or Saurashtra University, as the case may be. It appears for the colleges affiliated to North Gujarat University and Saurashtra University as per Cl.VIII the fee structure declared by the Centralised Admission Committee was as under:

"A Statelevel Committee for fixation of Fee for MBA/MCA self-financed courses has been constituted by Govt of Gujarat in consultation with AICTE, New Delhi. The fees structure approved by the committee for academic sessions beginning 2002-2003 will apply for institutions in Gujarat State.

The fee charged by various Universities in Gujarat and Self-Financed affiliated institutions are published in this bulletin by the respective institution. It should, however, be noted that the fees structure were applicable upto academic session ending 2001-2002 only."

The fee structure provided in clause 3 of the pamphlet for Centralised Admission for colleges affiliated to Gujarat University is as under:

"In all about five centres, the following fee structure prevails:

Normal fee :Rs.10,000/-per year
Payment fee :Rs.47,500/-per year
NRI/NRI sponsored :Rs.1,60,000/-per year

*Proposed from June, 2000, subject to some adjustments.

There is no dispute on the point that the Statelevel Committee constituted by All India Council for Technical Education (hereinafter referred to as "AICTE") issued Notification, dated 30.11.1999 notifying the fee structure for at the following rates:

Free Seats: M.B.A/PGDM M.C.A
Tuition fee Rs.1,500/-p.a. Rs.3,000/-
Development fee Rs.3,000/-p.a. Rs.3,000/-

Payment Seats:

Tuition fee Rs.32,000/-p.a. Rs.32,000/-
Development fee Rs.8,000/-p.a. Rs.8,000/-

NRI SEATS:
Tuition fee US$.4,000/-p.a. US$ 4,000
Development fee US$.1,000/-p.a. US$ 1,000

As per clause 3 these fees were to remain valid for three years i.e. 1999-2000, 2000-2001 and 2001-2002. However, it is the case of the petitioners that in the very notification at Cl.7 it has been provided that the development fee for free seats and payment seats for Engineering Degree and Diploma are decided as per the guidelines of the AICTE Notification F.No.NW/FEE-Com/97, dated 24.6.98 and in the very clause it has been mentioned that the development fee for other disciplines are still to be received from the AICTE and the present rates are only provisional and therefore shall be reconciled as per development fee finally decided by AICTE. There is also no dispute on the point that the petitioners-colleges have collected the fees from the concerned students who were admitted to their colleges during the academic year 2000-2001, 2001-2002 and 2002-2003 at the rates prescribed, i.e. for free seats

Rs.10,000/-p.a. for payment seats Rs.47,500/-p.a. and for NRI/NRI sponsored seats Rs.1,60,000/-p.a. which is more than the fee prescribed as per the aforesaid Govt.Notification, dated 30.11.1999. It is the case of the petitioners that the AICTE as per its letter dated 30.11.1999 provided development fee for MBA/MCA as under:

Free Seat Rs.7,000/-p.a.
Payment Seat Rs.17,500/-p.a.
NRI seat US$ 2,000 p.a.

Therefore, it is further case of the petitioners that they were entitled to collect the development fee and other fees not as per the notification, dated 30.11.1999 of Statelevel Committee but as per the fee structure referred to hereinabove from Rs,10,000/- to Rs.1,60,000/-. It appears that when it came to the notice of the Commissioner of Higher Education, Gujarat State that the petitioners and other concerned colleges affiliated to Gujarat University and certain colleges affiliated to North Gujarat University and Saurashtra University have charged more fee than the prescribed as per notification dated 30.11.1999 a letter was addressed by the Commissioner of Higher and Technical Education, Gujarat State intimating the petitioners that the fee which is collected by the colleges from the students concerned more than the prescribed fee as per notification dated 30.11.1999 should be refunded immediately. It is under these circumstances the petitioners have preferred these petitions challenging the action and direction not to insist for refund of the fees and for quashing the communication issued by the Director of Technical Education, dated 29.12.2003 for refund of the fees of the concerned year/s. The petitioners of SCA No.10823/03 are called upon to refund the difference of fee (hereinafter referred to as "the fees" for the sake of convenience) as per the impugned communicated of the Director of Technical Education for the academic years 2000-2001, 2001-2002 and 2002-2003. The petitioners of SCA No.17823/03 are called upon to refund the fee for the academic year 2002-2003. The petitioners of SCA No.17545/03 are called upon to refund the fee for the academic year2001-2002, 2002-2003, the petitioners of SCA No.500/04 are called upon to refund the fee of academic years 2001-2002 and 2002-2003 and the petitioners of SCA No.832/04 are called upon to refund the fee of academic years 2000-2001, 2001-2002 and 2002-2003.

3. Mr.Dave appearing for the petitioners in all the

petitions raised contentions that as per the regulations framed by the AICTE, the Statelevel Committee has no authority to prescribe the development fee and only the AICTE has power to prescribe the development fee. For supporting his contention he submitted that as per Regulations framed by the AICTE, the Statelevel Committee has power to decide only the tuition fee and not the development fee. He further submitted that as per Notification dated 24.4.02 of the AICTE, which has been issued in supersession of earlier regulations "fee" means tuition fee and other fees, but does not include "Development Fee". He submitted that the power to fix the development fee is only with the AICTE. For such purpose, he relied upon the guidelines issued by Govt.of India providing for modalities for determination of fees and development fees. On behalf of AICTE-respondent No.4 herein, the affidavit in reply is filed by Dr.Ashok Kumar, Regional Officer, AICTE and in the said affidavit at para 2 it has been stated as under:

"2. It is submitted that pursuant to the Som Lalit case order passed by this Honourable Court, the AICTE, after hearing the petitioner college of the said petition, vide letter, dated 8.12.2003 (a copy of the said letter, dated 8.12.2003 is annexed herewith) informed that the Som Lalit Institution of Management Studies have charged the fee in excess of the fee structure prescribed in accordance with law (i.e. the structure notified by the Statelevel Committee on 24.11.1999). AICTE has directed the Som Lalit Institute of Management Studies to deposit the excess fee for refunding to the concerned students. The AICTE, which is the statutory body, brought into existence by All India Council for Technical Education Act, 1987 with sole object ensure proper planning and coordinated development of technical education system through out the nation has also accepted the fees structure prescribed by the Statelevel committee and hence any institution imparting knowledge of technical education can not charge fee in excess of the fee prescribed by the Statelevel Committee."(emphasis supplied)

It may be recorded that in the case of Somlalit Institution of Management Studies, the management of the said college also collected surplus fee and show cause notice for cancellation of its recognition was also issued by AICTE and the Institution had preferred SCA

No.8961/03 and in the order, dated 19.8.03 passed in the said petition, it was observed by this court as under:

"Having considered the above, I am of the view that at this stage, this court is not required to examine the larger questions which are raised in this petition since the matter is at a show cause notice stage. Whether the fee structure decided by the respondent No.1 is to be adopted by the respondent No.2, or whether the fee structure as decided by the respondent No.1 comes into operation automatically in Gujarat State are issues which will have to be decided by the respondent No.1 while taking appropriate decision in the show cause notice. Of course, the stand of the respondent No.1 before this court primafacie submitted to support show cause notice is that such fee structure was required to be adopted by the respondent No.2 committee so far as Gujarat State is concerned and Mr.Joshi submitted that even the correspondence indicates that it has been forwarded for the purpose of adoption of . Of course, such a view, in any case, is primafacie and thereby it can not be said that the matter would not be independently examined by AICTE at the time of taking final decision upon show cause notice. I am not expressing any fianl view on the said aspect since the respondent No.1 will have to take appropriate decision in the matter including on the question as to whether the fee structure decided by the respondent No.1 would operate automatically or any adoption is required by the Statelevel Committee-respondent No.2 herein."(emphasis supplied)

Ultimately matter was relegated to the AICTE for appropriate decision. In the affidavit in reply filed in this group of petitions on behalf of respondent No.4-AICTE the decision in the case of Somlalit Institute of Management Studies, dated 8.12.03 is relied upon and in the said decision at internal page 2 at para 3 it has been observed as under:

"Based on the observations of the Hearing Committee and Expert Committee the Competent Authority in the Council came to the conclusion that your institute charged the fee in excess of the structure prescribed in accordance with the law and consequently take a decision to direct

the institute to deposit the excess fee with the University for disbursing the same to refund to the students concerned."

It may be recorded that thereafter the recognition of Som Lalit Institute of Management Studies was cancelled by the AICTE. Subsequently, petition was preferred before this court by the management of the said college and the said petition was admitted and stay was granted only against non-recognition and thereafter the said petition has been withdrawn by Som Lalit Institute of Management Studies. Therefore, the stand of the AICTE before this court that the institute imparting knowledge of technical education can not charge fee in excess of fee prescribed by the Statelevel Committee is clear.Mr.Dave, learned counsel appearing for the petitioners made an attempt to submit that as per the information of the petitioners the observations of the Hearing Committee and Expert Committee are otherwise and therefore this court may not consider that the decision communicated by the Council is in accordance with the observations of the Hearing Committee and Expert Committee. In the opinion of the court, even if the observations of the Hearing Committee and Expert Committee are otherwise, such observations of the Committee can, at the most, be by recommendation and can not nullify the effect of final stand taken before this court in this group of petitions including the decision rendered in the case of Som Lalit Institute of Management Studies.

4. Mr.Dave, Ld.counsel for the petitioners has also alternatively submitted that such a stand on the part of AICTE before this court in this group of petitions is contrary to the stand taken by the very institute in the litigation before the other High Courts. He further submitted that as per law, the Statelevel Committee has only to act upon the fixation of development fee by AICTE. For such purpose he relied upon the decision of the Andhra Pradesh High Court dated 18.7.2000 in Writ Petition N.16489/1999 in the case of AP Private Engg.Colleges Management Association vs Govt of Andhra Pradesh and others. In this regard if the matter is examined further and even if it is accepted that the power to fix the amount of development fee lies with AICTE as per guidelines vide No.F-20-43/96-Desk (U) copy whereof is produced by the petitioners with the affidavit rejoinder in SCA No.500/04 in Cl.6.4 for Determination of Fee, it has been provided that the fee chargeable by various categories of institutions shall be determined by the Committee prescribed, which is a Statelevel Committee. Under Cl.6.6 for Fee Determination in

subclause (g) it has been provided that the fee will have broad categories. Tuition Fee and Development Fee. In subclause (f) of same clause it has been provided as under:

"As the fee chargeable will be notified by the relevant committee, it will be the duty of the Statutory body concerned to communicate the rate of Development Fee to such bodies well in advance to enable the appropriate Committees to suitably incorporate such rates in their Notification. The UGC/AICTE will take into account the views and suggestions of the private institutions, the State Govt and interested members of public while determining these rates."

Therefore, as per the guidelines issued by the Govt of India , fees, including Development Fees are required to be notified by the Statelevel Committee. In the regulations framed by AICTE, as per notification, dated 20.5.1994, in Regulation No.3 for definition, clause(d) reads as under:

"Fee" in relation to free seats and payment seats means 'all institutional fees and includes tuition fee"

Therefore, the development fee woulde get included in the word "all institutioanl fees". Even otherwise also, the definition of word "fee" is inclusive definition and not exhaustive definition and as per settled principles of interpretation of statute, all types of fees including development fees shall get included.

Further regulation 7 under the head of Fees provides as under:

"Clause (1) that Tuition fees and other fees for professional colleges shall be determined by a Statelevel Committee.

Clause (5) provides for modalities and the material to be considered by the Committee while determining tuition fee and other fees.

Clause (6) provides that "No professional college shall be entitled to receive from the students any other payment or amount under whatever name it may be called in addition to the fees fixed by the Committee for a free

seat of payment seat."
(emphasis supplied)

Regulation 11 provides that Council will have power to issue clarification for removal of any doubt etc.

It appears that regulations framed as per Notification, dated 24.4.2002 which are pressed in service on behalf of petitioner are in supersession of earlier regulation of 2000 and circular dated 3.9.2001 but all are for admission and fee structure of NRI/Foreign National Students/Seats. It is true that as per definition 3.5 "fees" means "tuition fees and other fees" but does not include development fee is provided but the pertinent aspect is that in Regulation No.5 after Clause 5.8 and one paragraph it has been specifically provided as under:

> "The 'Fees' and 'Development Fee'to be charged from amongst Foreign Nationals/persons of Indian Origin (PIOs) students shall be as per the ceiling fixed by the duly constituted Statelevel Committee or National Fees Committee, whichever is applicable."

As per definition vide regulation No.3.15 for fixation of fees for concerned State, Statelevel Committee is to be constituted and National Fee Committee shall be for National basis as per Regulation No.3.14, like I.I.T or Institution having colleges at National level.

Therefore, power to accord final sanction to all fees including development fees are with Statelevel Committeee and for such purpose the decision of Statelevel Committee is required to be taken and notification is also required to be issued. No other regulations framed by the AICTE are brought to the notice of the court which may be in operation prior to the abovereferred notification, dated 24.4.02 for showing that for NRI/POI students, State level Committee had not to finalise all the fees by issuing notification.

5. It is an admitted position and that is not even the case of the petitioners that the State level Committee has notified development fee as decided by the AICTE and therefore unless and until the Statelevel Committee notifies for inclusion of development fee which might have been decided by its own or by the AICTE the petitioners colleges would not be

entitled to charge the fees either under head of "Fee" or "Development Fees". The requirement under law for publication of notification for fixation of development fee by the Statelevel Committee, in my view, is a mandatory requirement and therefore the functioning of the Statelevel Committee can not be said to be like that of a Post Office as sought to be canvassed by Mr.Dave by adopting the language used in the decision of the Andhra Pradesh High Court. As such even if the observations made by the Andhra Pradesh High Court in the case of AP Private Engg.Colleges Management Association (supra) are considered, while recording finding on issue No.4, interalia, it has observed as under:

> "The function of the Statelevel Committee is like that of a Post Office and it has to simply notify the development fee as notified by the AICTE and it is not within their power and it is not within their power to tinker or modify the same.(emphasis supplied)

Therefore, it has been found even by the AP High Court that the same is required to be notified by the Statelevel Committee. The question as to whether the notification by the Statelevel Committee is mandatory or not is not considered in the said decision of the Andhra Pradesh High Court.In my view, the requirement by legislature or by subordinate legislation for issuance of notification for considering the decision in normal circumstances can not be read as directory. Further, if the notification is published, it results into an official Act of a statutory body and the power would flow only thereafter. Moreover, in normal circumstances, there will be a deeming presumption that once any action is taken by issuing notification published in the gazette, it is made known to public at large including the class of students, parents of the students and to colleges and authorities etc. In the absence of notification by the Statelevel Committee incorporating the development fees as suggested by the AICTE even if it is considered that the AICTE has power to fix the development fees, the action of collection of fees, by the petitioner colleges which had authority to college the fees only to the extent of fee as notified by the Statelevel Committee from time to time, would be rendered without any authority under law and therefore the respondent No.4-AICTE is right in taking stand that the institution imparting technical education can not charge the fee in excess than what is prescribed by the Statelevel Committee. As aforesaid aspects are not

considered as observed earlier, the decision of A.P.High Court upon which reliance is placed on behalf of petitioners is of no help to them.

6. MR.Dave, learned advocate for the petitioners submitted that for the academic year 2002-2003 there was no notification and therefore in any case the respondent can not insist for refund of fee for the said period. In this regard, Dr.U.M.Upadhyay, Dy.Director, Technical Education has filed affidavit in reply stating that as per letter, dated 4.10.02 of the Director of Technical Education all the concerned colleges imparting MBA/MCA were informed that the fee structure prescribed vide notification dated 24.11.99 shall be operative till new fee structure is decided by the Statelevel Committee and therefore when the colleges were already communicated for such purpose, the said aspects would be rendered irrelevant on the point of issuance of notification by the Statelevel Committee for the academic year 2002-2003. If the matter is strictly considered, in absence of the notification by the Statelevel Committee for the academic year 2002-03, the petitioners colleges had absolutely no right or authority to collect any fee and consequently the total collection of fee for the said period may be rendered without authority and therefore the stand taken by the Director of Technical Education can not be said to be unreasonable if the colleges are conveyed that until fresh notification by the Statelevel Committee the present fee structure will continue. It is not even the case of the petitioners that such communication, dated 4.10.2002 is not received but the ground sought to be contended is that the said communication would be insignificant and in view of the observations made hereinabove it can not be accepted as the fact remains that the Statelevel Committee had not issued notification for such purpose.

7. Mr.Dave, Ld.Counsel appearing for the petitioners alternatively submitted that even the socalled regulations of AICTE on which reliance is placed by the authority which authorises the Statelevel Committee to publish the notification are held to be unconstitutional by the decision of the Apex Court in the matter of T.M.A.Pai Foundation & Ors vs State of Karnataka & Ors reported in (2002)8 SCC 481 and for such purpose he relied upon the observations of the Apex Court in the said decision at para 45 which reads as under:

"45. In view of the discussion hereinabove, we hold that the decision in Unnikrishnan case in so

far as it formed the scheme relating to the grant of admission and the fixing of the fee, was not correct, and to that extent, the said decision and the consequent directions given to UGC, AICTE, the Medical Council of India, the Central and State Govts etc are overruled."

It appears that the petitioners are the institutions who have taken benefit of said regulations authorising them to charge the fees as per regulations framed by AICTE and the petitioners herein now can not be heard to say that said regulations as are declared unconstitutional or overruled by the Apex Court in the above referred judgment, and therefore, the petitioners can be directed to refund the surplus fee collected by them on the basis of fee prescribed by the Statelevel Committee as per the said regulations. Even if the regulations are declared as unconstitutional or overruled, the one who is beneficiary of such regulations can not be allowed to take a contrary stand. Even if the matter is considered on the basis that there are no regulations for fixation of fee structure then also the fact that the students were made to believe the fee collected is as per the fee prescribed by the competent authority and in accordance with law. If the fees are collected on the basis that such person had the authority to collect the fees, subsequently if the authority with the person to collect the fee is lacking such person can not be allowed to retain the undue benefit taken by him contending that the provisions are unconstitutional. Even if the provisions of regulation are considered as unconstitutional then also such persons who have taken benefit of any provisions of such regulation can not be allowed to invoke extraordinary discretionary jurisdiction of this court under Article 226 of the Constitution when such persons are called upon to refund the fees collected in excess of the fees provided as per the said regulations. Hence, said contention as sought to be canvassed on behalf of the petitioners in my view not only lacks bonafide but is with malafide intention to retain the undue benefit enjoyed under the bonafide belief of students concerned that the regulations prevail and accordingly the students are required to pay the fee to college concerned and the colleges concerned had lawful authority to collect fees as per regulations. If such contention as sought to be canvassed on behalf of the petitioners is entertained and accepted, the consequences would be that the petitioners will be allowed to earn premium of their own wrong by making representation to the students that it is within their power under law to collect the fees and the students under law are required

to pay the fee both as per regulations made by the AICTE. Therefore, the said contention of Mr.Dave for the petitioners can not be accepted.

8. In view of the aforesaid observations based on the said contention, whether the decision of the Apex Court in the case of TMA Pai (supra) would be having effect of prospective overruling or not is not required to be decided in this group of petitions.

9. It has also been contended on behalf of petitioners that there is no authority with the Director of Technical Education to direct the petitioners to refund the fee. Therefore, Mr.Dave submitted that the communication dated 30.6.03 is without any authority under law. If the communication, dated 30.6.03 is considered, it relates to earlier show cause notice and at the time when the show cause notice is issued the petitioners have not challenged the show cause notice raising the contention on the question of authority of the Director of Technical Education. Further, as per the guidelines issued by the Govt of India read with regulation in the Statelevel Committee, the Director of Technical Education of the State is the member Secretary. Mr.Nanavaty learned counsel appearing for the respondent Gujarat University in the concerned petition made statement at Bar that the majority of the colleges which are covered by the issue of surplus fees and which were intimated by the Director of Technical Education have refunded the fee including Som Lalit Institute of Management Studies. He further submitted that not only that but the University in turn has also refunded the fee to the students concerned unless it is prohibited by any orders of the competent court which are in the present cases. The Director of Technical Education is not only having the capacity as the member Secretary of the Education Dept but has also to look after general administration of Technical Education in the State subject to relevant statutory provisions or regulations, as the case may be. In case of Som Lalit Institute of Management Studies since initially the surplus fees were not refunded by the college, the AICTE the respondent No.4 herein had taken action for derecognition and ultimately it was derecognised also and thereafter as observed earlier in the proceedings before this court the stay was granted against the derecognition and subsequently the said petition has been withdrawn by the said institute. Further, in view of the observations made hereinabove, on the question of authority of the petitioner institutions to collect the fee in addition to the fees prescribed by the Statelevel Committee, it can

not be said that the Director of Technical Education had no authority for intimating to the petitioners to refund the surplus fee collected from the students concerned as per the communication. Further, the Director of Technical Education being the member secretary of the Statelevel Committee, if has communicated calling upon the petitioners to refund the fees, it can not be said that there is absolutely no authority on the part of the Director to address such communication. It may that that if the instructions are not complied with, the Director of Technical Education may take action in accordance with law for recommendation or otherwise to cancel the recognition of the college or other actions known to law. When the principal challenge of the petitioners in the petitions is for entitlement to collect the fee from the students and in view of the observations made hereinabove it is found that the action of collection of surplus fees than the prescribed fee by the Statelevel Committee is illegal and without authority, the communication issued by the Director, Technical Education is proper and justified. Even otherwise also the communication by the Director of Technical Education as per letter, dated 30.6.03 is not unreasonable or arbitrary, and hence is not required to be interfered with by this court in exercise of power under Article 226 of the Constitution of India and more particularly in view of the observations and findings recorded hereinabove on the said aspects including the aspects on the conduct on the part of the petitioners and their entitlement to invoke the extraordinary equitable writ jurisdiction of this court under Article 226 of the Constitution of India.

10. In view of the aforesaid, all the petitions deserve to be dismissed and are hereby dismissed.

11. So far as vacating ad interim relief is concerned, certain petitioner colleges have already deposited the amounts with the university and in those cases the university in view of dismissal of the petitions and consequently vacating the ad interim relief shall be at liberty to refund the fee to the students concerned if the amount is lying with the university. I

In certain cases, where the interim relief has been granted on condition to deposit the amount of surplus fees with this court and where the amount of surplus fees is already deposited, the concerned university shall be at liberty to withdraw the said

amount from the office of this court and in turn refund the same to the students concerned.

12. If the amount is not deposited either with the university or with this court, it would be open to the respondents herein to take action in accordance with law.

13. Considering the facts and circumstances of the case, there shall be no orde as to costs.

19.8.04 (JAYANT PATEL,J)

After the pronouncement of the order, Mr.Dave, Ld.advocate for the petitioners prays that the order be stayed for some time so as to enable the petitioners to approach the higher forum.

Considering the facts and circumstances, as the collection of fees is found to be without any authority and, more particularly, the majority of other similarly situated colleges have deposited the fees with the university and the university, in turn, has refunded the amount to the students, as per statement recorded hereinabove, I find that the said request of Mr.Dave, Ld.advocate for the petitioners can not be accepted and, hence, rejected.

19.8.04 (JAYANT PATEL,J)